

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**BRIAN BAUDER**

§  
§  
§  
§  
§

**CRIMINAL NO. 4:17-CR-103-ALM-CAN**

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the Government's request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on January 11, 2022, to determine whether Defendant violated his supervised release. Defendant was represented by Brian O'Shea. The Government was represented by Sean Taylor.

On April 4, 2018, United States District Judge Marcia A. Crone sentenced Defendant to a term of thirty-seven (37) months' imprisonment followed by three (3) years of supervised release. On August 4, 2020, Defendant completed his term of imprisonment and began serving the term of supervision.

On April 1, 2021, the U.S. Probation Officer filed the Petition for Warrant or Summons for Offender under Supervision (the "Petition") (Dkt. 44). The Petition asserts Defendant violated the following conditions of supervision: (1) Defendant must not commit another federal, state, or local crime; (2) Defendant must refrain from any unlawful use of a controlled substance; (3) Defendant must not possess or consume alcoholic beverages; and (4) Defendant must participate in a program of testing and treatment for substance abuse and follow the rules and regulations for such program until discharged.

The Petition asserts Defendant violated the foregoing conditions:

- On December 6, 2020, Defendant was arrested by the Frisco Police Department for Public Intoxication, a Class C Misdemeanor.
- On March 16, 2021, Defendant submitted a urine specimen at the U.S. Probation Office, which tested positive for methamphetamine. Defendant subsequently admitted to using methamphetamine.
- Defendant consumed alcohol, as evidenced by his December 6, 2020 arrest for Public Intoxication.
- On March 15, 2020, Defendant admitted he consumed alcohol on or about December 13, 2020.
- Defendant failed to submit urine specimens for substance abuse testing on the following dates: December 12, 2020; December 14, 2020; January 12, 2021; January 16, 2021; March 15, 2021; and March 25, 2021.
- As part of his program of testing and treatment for substance abuse, Defendant was instructed to call a notification line every day and report for drug testing as instructed. Defendant failed to call the notification line on forty-one (41) occasions between August 5, 2020, and March 30, 2021.

On January 11, 2022, the Court conducted a final revocation hearing on the Petition. *See* Dkt. 57. Defendant entered a plea of true to allegations 1 through 4, consented to revocation of his supervised release, and waived his right to object to the proposed findings and recommendations of the United States Magistrate Judge. *See* Dkts. 57, 58. The Court finds that Defendant violated the terms of his supervised release, and thus, his supervised release should be revoked.

#### **RECOMMENDATION**

Pursuant to the Sentencing Reform Act of 1984, and having considered the arguments presented at the January 11, 2022 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months, followed by an additional twelve (12) months of supervised release under the same conditions previously imposed. Additionally, the Court recommends Defendant be placed at the Federal Bureau of Prisons facility in Texarkana, Texas, if appropriate.

**So ORDERED and SIGNED this 14th day of January, 2022.**

A handwritten signature in black ink, appearing to read 'K. Priest Johnson', written over a horizontal line.

KIMBERLY C. PRIEST JOHNSON  
UNITED STATES MAGISTRATE JUDGE